

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

LUDMILA KAPLAN,  
 Plaintiff,

v.

DEPARTMENT STORES NATIONAL  
 BANK, et al.,  
 Defendants.

Case No. 15-cv-03792-BLF

**ORDER DEFERRING RULING ON  
 DEFENDANT'S MOTION TO STRIKE**

Defendant's motion to strike Plaintiff's complaint under California's anti-SLAPP statute was heard on February 4, 2016. The Court has considered the parties' briefing and oral argument presented at the hearing. For the reasons stated on the record and below, the Court DEFERS ruling on Defendant's motion to strike.

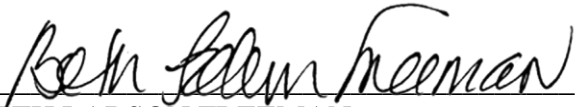
At the hearing, the Court discussed its concerns and provided its thoughts about the pending motion and this case with the parties. However, the Court cannot yet rule on Defendant's anti-SLAPP motion. While in California state court, parties faced with an anti-SLAPP motion are not given an opportunity to amend their complaint, the procedural rules are different in federal court. The Ninth Circuit has held that "granting a defendant's anti-SLAPP Motion to Strike a Plaintiff's initial complaint without granting the plaintiff leave to amend would directly collide with Fed. R. Civ. P. 15(a)'s policy favoring liberal amendments." *See Verizon Del. Inc. v. Covad Communs. Co.*, 377 F.3d 1081, 1091 (9th Cir. 2004). At the hearing and in her opposition papers, Plaintiff indicated that she would like the opportunity to amend her complaint.

Accordingly, the Court DEFERS ruling on Defendant's anti-SLAPP motion. Plaintiff shall

1 file an amended complaint **on or before** February 18, 2016. If an amended complaint is filed, the  
2 Court will MOOT the pending anti-SLAPP motion. If no amended complaint is filed, the Court  
3 will rule on the motion. Plaintiff may not add new claims in the amended complaint without  
4 seeking leave of court.

5 **IT IS SO ORDERED.**

6 Dated: February 4, 2016

7   
8 BETH LABSON FREEMAN  
United States District Judge

United States District Court  
Northern District of California